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Appl. No.: 10/555,819

Amdt. Dated July 27, 2007

Response to Office Action Mailed April 27, 2007

REMARKS:

Applicant appreciates the time and care the examiner has taken in examining the application.

Interview Summary. As the interview record under 37 CFR §1.33(b), Applicant states as follows. A telephone interview was conducted on July 20, 2007, between the examiner and Jane S. Berman, Reg. No. 43,494, one of the attorneys for Applicant. The interview consisted of discussion of the examiner's objections to the drawings in the Office action mailed April 27, 2007, and in particular the statement in the Office action that "These drawings are unacceptable since Figures 1-4 are missing." Attorney for Applicant requested clarification, insofar as the drawing amendment filed January 17, 2007 amended only Fig. 5, and Replacement Sheet 2 had been included therewith, containing amended Fig. 5 and original Fig. 6, and therefore, there was no requirement to submit copies of Figs. 1-4. The examiner clarified that the reason for the statement in the Office action was that the examiner had no copy of Original Sheet 1. In the interview, the examiner indicated that the Applicant, in this response, should simply supply a courtesy copy of both sheets of the drawings. Agreement was reached, in that Applicant's attorney agreed to include such courtesy copies with this response. Applicant thanks the examiner for the time and care taken in granting the interview and providing clarification of the Office action.

Response to Objections to the Drawings. The objections are traversed because Figs. 1-4 are already of record, by reason of having been included with the initial filing of this application on November 4, 2005, and moreover having been of record during the international phase. Figs.

1-4 were not amended in the January 17, 2007 amendment, and thus no requirement existed for submission of another copy of Original Sheet 1 with the January 17, 2007, amendment. Figs. 1-6 as amended include reference numerals 3-10. However, it is respectfully submitted that the objections nonetheless have been obviated in view of the interview recited above and in view of the resulting inclusion herewith of courtesy copies of Original Sheet 1 and Replacement Sheet 2 of the drawings. Entry of the amendment to Fig. 5 filed on January 17, 2007, is earnestly requested, and it is submitted that the objection under 37 CFR §1.84(p)(5) should now be reconsidered and withdrawn.

Response to Rejection of Claims 6-7 and 12 under Section 102(b) over Reinbolt, U.S. Patent No. 5,256,123. Applicant requests reconsideration of this rejection, and states the following in support. Independent claim 6 contains the following limitation (emphasis added):

the elastic hollow tube (1) comprises two internal chambers inside the hollow tube that are connected by at least one damping hole, such that the hollow tube is configured to offer resilient resistance to the user's vaginal compression when fluid in the tube is forced, by the user's vaginal compression, from a first one of the internal chambers, through the damping hole, into a second one of the internal chambers.

The damping hole of this construction is explained in particular at Paragraph [0027] of the instant specification. As therein explained, the damping hole provides the resistance, recited in claim 6, to the movement of fluid from a first internal chamber into a second internal chamber. The realization and use of the fluidal damping resistance make it possible to adjust the resistance. In contrast, in Reinbolt, there is no mention of any damping hole or any fluidal resistance offered by any damping hole. In fact, in Reinbolt, col. 4, lines 50-52, it states in regard to its opening between the first and second internal portions 100, 120: "The opening 500 should be sufficiently large to permit a free flow of fluid from one chamber to another without any impedance". Thus it is very clear that this opening is not a damping hole. A second opening 540 on the wall 140 of

Reinbolt is not used to connect the first and second internal portions 100, 120. Rather, the second opening 540 on the wall 140 of Reinbolt is for insertion of tubular member 560 which is ultimately linked out to the fluid filler member 600. Thus, Reinbolt neither discloses nor suggests the damping hole providing resistance as set forth in claim 6 herein.

Therefore, it is respectfully submitted that claim 6 herein is not anticipated by Reinbolt, U.S. Patent No. 5,256,123. By reason of dependence from claim 6, it also is submitted that claims 7 and 12 similarly are not anticipated by Reinbolt.

Response to Rejection of Claims 6-7, 9-10 and 12 under Section 102(b) over Shapiro, U.S. Patent No. 4,653,514. Applicant requests reconsideration of this rejection, and states the following in support. Independent claim 6 contains the following limitation (emphasis added):

the elastic hollow tube (1) comprises two internal chambers inside the hollow tube that are connected by at least one damping hole, such that the hollow tube is configured to offer resilient resistance to the user's vaginal compression when fluid in the tube is forced, by the user's vaginal compression, from a first one of the internal chambers, through the damping hole, into a second one of the internal chambers.

The damping hole of this construction is explained above; it provides the resistance as recited in claim 6. In contrast, in Shapiro, there is no mention of any damping hole, or any fluidal resistance offered by any damping hole. In fact, in Shapiro, a sponge portion 8 is used to offer resistance, as explained in Shapiro at col. 3, lines 35-49, and col. 4, lines 43-46. The passageway 11 inside the rod 2 of Shapiro has nothing to do with offering resistance.

Shapiro's features fail to anticipate the invention as set forth in claim 6. Therefore, it is submitted that claims 7, 9, 10 and 12 also are not anticipated by Shapiro in view of their dependency from claim 6.

Allowable Claims. It is noted that the examiner has deemed claims 8 and 11 to be allowable if rewritten to be independent of in independent form including all of the limitations of the base claim and any intervening claims. It is noted that claim 10, which depends from claim 8, also should be included in this list of allowable claims, because it depends directly from the allowable claim 8. Pending the examiner's treatment of this response, Applicant intends to rewrite claims 8, 10 and 11 to be independent of any rejected base claim or intervening claim, in order to obviate the objection.

Conclusion. It is respectfully submitted that the application is in condition for prompt allowance and that all of the objections, rejections and requirements raised in the Office action have been met. Early, favorable treatment of this application is requested.

The examiner is encouraged to telephone the undersigned with any questions or comments so that efforts may be made to resolve any remaining issues.

Extension Request and Deposit Account Fee Charge Authorization. The Commissioner is hereby authorized to charge any necessary fees, or credit any overpayment, associated with this communication, including fees for any necessary extension of time under 37 CFR §1.136(a) for filing this communication, which extension is hereby requested, to our Deposit Account No. 50-0305 of Chapman and Cutler LLP.

Respectfully submitted,

By: 

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CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8

Attorney Docket Number: 1717107
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I hereby certify that the attached correspondence, namely: Response to Office Action, was transmitted by facsimile on the date listed above, to the U.S. Patent Office at the facsimile number listed above, under 37 C.F.R. § 1.8.


Signature:

Typed Name of Person Signing this Certificate: Jane S. Berman

Date of Signature: July 27, 2007